

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH

UNITED STATES OF AMERICA

SEALED

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FILED
U.S. DISTRICT COURT CLERK
WEST. DIST. KENTUCKY

INDICTMENT

v.

NO. 5:08CR38-R
18 U.S.C. § 844 (f) (1)
18 U.S.C. § 844 (f) (3)
18 U.S.C. § 3591
18 U.S.C. § 3592

BILLI JO SMALLWOOD

The Grand Jury charges:

COUNT 1

1. On or about May 29, 2007, in the Western District of Kentucky, at Fort Campbell, Kentucky, **BILLI JO SMALLWOOD**, the defendant herein, did, maliciously damage and destroy, and attempt to damage and destroy, in whole and in part, by means of fire, a building, to wit, living quarters located at 4137 D Dixie Road, on the Fort Campbell military base, which was owned and possessed at that time by the United States Army, and used by the United States Army as a residential facility for active members of the United States Army and their families.

In violation of Title 18, United States Code, Section 844 (f) (1).

The Grand Jury further charges:

COUNT 2

2. On or about May 29, 2007, in the Western District of Kentucky, at Fort Campbell, Kentucky, **BILLI JO SMALLWOOD**, the defendant herein, did, maliciously damage and destroy and attempt to damage and destroy, in whole and in part, by means of fire, a building, to wit, living quarters located at 4137 D Dixie Road, on the Ft. Campbell base, which was owned and possessed at that time by the United States Army, and used by the United States Army as a residential facility for active members of the United States Army and their families, and, as a result of such conduct, the defendant, **BILLI JO SMALLWOOD**, directly and proximately caused the deaths of her nine year old son, Sam Fagan, and her two year old daughter, Rebekah J. Smallwood.

In violation of Title 18, United States Code, Section 844(f)(3).

The Grand Jury alleges:

NOTICE OF SPECIAL FINDINGS

3. The allegations in Counts 1 and 2 of this Indictment are realleged and expressly incorporated herein as if set out in full.

4. As to Count 2 of this Indictment, the defendant,
BILLI JO SMALLWOOD:

a) was more than 18 years of age at the time of the offenses (Title 18, United States Code, Section 3591(a));

b) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victims died as a direct result of the act (Title 18, United States Code, Section 3591(a)(2)(C)); and

c) intentionally and specifically engaged in an act of violence knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victims died as a direct result of the act (Title 18, United States Code, Section 3591(a)(2)(D)).

d) In commission of the offense described in Count 2 of the Indictment the defendant, **BILLI JO SMALLWOOD**, knowingly created a grave risk of death to one or more persons in addition to the victims of the offenses (Title 18, United States Code, Section 3592(c)(5));

e) The defendant, **BILLI JO SMALLWOOD**, committed the offense described in Count 2 of this Indictment as consideration for the receipt, and in the expectation of the receipt, of anything of pecuniary value (Title 18, United States

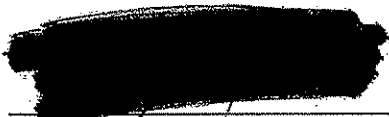
Code, Section 3592(c)(8));

f) The defendant, BILLI JO SMALLWOOD, committed the offense described in Count 2 of this Indictment after substantial planning and premeditation to cause the death of a person (Title 18, United States Code, Section 3592(c)(9)); and

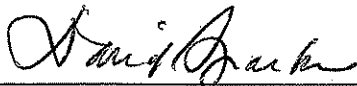
g) The victims of the offense described in Count 2 of this Indictment were particularly vulnerable due to youth (Title 18, United States Code, Section 3592(c)(11)).

All pursuant to Title 18, United States Code, Sections 3591 and 3592.

A TRUE BILL



FOR PERSON



for DAVID L. HUBER
UNITED STATES ATTORNEY

UNITED STATES OF AMERICA v. BILLI JO SMALLWOOD

P E N A L T I E S

Count 1: NL 5 yrs./NM 20 yrs./\$250,000 fine/both/NM 5 yrs. Supervised Release
Count 2: Death/or NL 20 yrs. or Life/\$250,000 fine/both/NM 5 yrs. Supervised Release

N O T I C E

ANY PERSON CONVICTED OF AN OFFENSE AGAINST THE UNITED STATES SHALL BE SUBJECT TO SPECIAL ASSESSMENTS, FINES, RESTITUTION & COSTS.

SPECIAL ASSESSMENTS

18 U.S.C. § 3013 requires that a special assessment shall be imposed for each count of a conviction of offenses committed after November 11, 1984, as follows:

Misdemeanor: \$ 25 per count/individual Felony: \$100 per count/individual
 \$125 per count/other \$400 per count/other

FINES

In addition to any of the above assessments, you may also be sentenced to pay a fine. Such fine is due immediately unless the court issues an order requiring payment by a date certain or sets out an installment schedule. You shall provide the United States Attorney's Office with a current mailing address for the entire period that any part of the fine remains unpaid, or you may be held in contempt of court. 18 U.S.C. § 3571, 3572, 3611, 3612

Failure to pay fine as ordered may subject you to the following:

1. INTEREST and PENALTIES as applicable by law according to last date of offense.

For offenses occurring after December 12, 1987:

No INTEREST will accrue on fines under \$2,500.00.

INTEREST will accrue according to the Federal Civil Post-Judgment Interest Rate in effect at the time of sentencing. This rate changes monthly. Interest accrues from the first business day following the two week period after the date a fine is imposed.

PENALTIES of:

10% of fine balance if payment more than 30 days late.

15% of fine balance if payment more than 90 days late.

2. Recordation of a LIEN shall have the same force and effect as a tax lien.

3. Continuous GARNISHMENT may apply until your fine is paid.

18 U.S.C. §§ 3612, 3613

If you WILLFULLY refuse to pay your fine, you shall be subject to an ADDITIONAL FINE of not more than the greater of \$10,000 or twice the unpaid balance of the fine; or IMPRISONMENT for not more than 1 year or both.
18 U.S.C. § 3615

RESTITUTION

If you are convicted of an offense under Title 18, U.S.C., or under certain air piracy offenses, you may also be ordered to make restitution to any victim of the offense, in addition to, or in lieu of any other penalty authorized by law. 18 U.S.C. § 3663

APPEAL

If you appeal your conviction and the sentence to pay your fine is stayed pending appeal, the court shall require:

1. That you deposit the entire fine amount (or the amount due under an installment schedule during the time of your appeal) in an escrow account with the U.S. District Court Clerk, or
2. Give bond for payment thereof.

18 U.S.C. § 3572(g)

PAYMENTS

If you are ordered to make payments to the U.S. District Court Clerk's Office, certified checks or money orders should be made payable to the Clerk, U.S. District Court and delivered to the appropriate division office listed below:

LOUISVILLE: Clerk, U.S. District Court
106 Gene Snyder U.S. Courthouse
601 West Broadway
Louisville, KY 40202
502/625-3500

BOWLING GREEN: Clerk, U.S. District Court
120 Federal Building
241 East Main Street
Bowling Green, KY 42101
270/393-2500

OWENSBORO: Clerk, U.S. District Court
126 Federal Building
423 Frederica
Owensboro, KY 42301
270/689-4400

PADUCAH: Clerk, U.S. District Court
127 Federal Building
501 Broadway
Paducah, KY 42001
270/415-6400

If the court finds that you have the present ability to pay, an order may direct imprisonment until payment is made.

No. 5:08 CR 38 R

UNITED STATES DISTRICT COURT
Western District of Kentucky
Paducah Division

THE UNITED STATES OF AMERICA

vs.

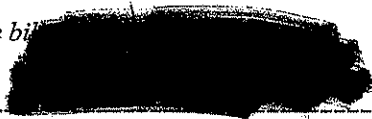
BILLI JO SMALLWOOD

INDICTMENT

**Title 18 U.S.C. §§ 844(f)(1); 844(f)(3); 3591;
3592:**

**Malicious damage and destruction by fire to
property owned by the United States; Malicious
damage and destruction by fire to property
owned by the United States resulting in deaths;
Sentence of Death; Mitigating and Aggravating
Factors to be Considered in Determining
Whether a Sentence of Death is Justified.**

A true bill



Foreman

Filed in open court this 13th day, of November, A.D. 2008.

FILED

Clerk

Bail, \$

NOV 13 2008

JEFFREY A. APPERSON, CLERK

BY

DEPUTY CLERK